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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,536	11/10/2003	Daniel K. Gibby	4263-031577	5139

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EXAMINER

SWENSON, BRIAN L

ART UNIT PAPER NUMBER

3618

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,536

Applicant(s)

GIBBY, DANIEL K.

Examiner

Brian Swenson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,6,10,16,19,20 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-9,11-15,17,18 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1, 15 and 21 are objected to because of the following informalities:
 - a. the phrase "box-like" (claims 1 and 21, line 3) is unclear. The examiner suggests removing the word "like" or replacing the word "like" with "shaped".
 - b. In claim 15 clarification is requested for line 3, "rectangular container including a top portion having a bottom portion". Did applicant intend for line 3 of claim 15 to read: "rectangular container including a top portion **and** a bottom portion". Clarification is requested.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 17 recites the limitation "the handle" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,246,825 issued to Zastrow.

Zastrow teaches in Figures 1-7 and respective portions of the specification of: a carrier for transporting a pressurized cylinder (B), the carrier comprising a rectangular, open-top container (Figure 3) for accommodating the pressurized cylinder therein, the rectangular container including a top portion and a bottom portion, and a plurality of side portions (see Figures 1-5), the side portions of the container sized and spaced so as to receive and secure the cylinder therein with a friction fit (Figure 4).

In regards to claim 17, see hand hole in Figure 1.

5. Claims 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,673,847 issued to Swink.

Swink teaches in Figures 1-7 and respective portions of the specification of: a carrier for transporting a pressurized cylinder (12), the carrier comprising a rectangular, open-top container (Figure 1) for accommodating the pressurized cylinder therein, the rectangular container including a top portion and a bottom portion, and a plurality of side portions (see Figure 1), the side portions of the container sized and spaced so as to receive and secure the cylinder therein with a friction fit (Figure 1).

In regards to claim 17, see hand hole in Figure 1.

6. Claims 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,905,855 issued to Troiano et al (cited in IDS).

Troiano teaches in Figures 1-5 and respective portions of the specification of: a carrier for transporting a pressurized cylinder (12), the carrier comprising a rectangular, open-top container (Figure 1) for accommodating the pressurized cylinder therein, the rectangular container including a top portion and a bottom portion, and a plurality of side portions (see Figure 1), the side portions of the container sized and spaced so as to receive and secure the cylinder therein with a friction fit (Figure 1).

In regards to claim 18, see hole for receiving fastener to fasten seatbelt and buckle (44).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4, 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,905,855 issued to Troiano et al. in view of U.S. Patent No. 1,873,690 issued to Ward.

Troiano et al. teaches in Figures 1-5 and respective portions of the specification of: a container of box shaped proportions for transporting a propane cylinder. The container has a top, having an opening therein, a bottom portion and a plurality of side portions (Figure 1) and one or more handles for gripping the carrier (74).

Troiano et al. discloses the claimed invention except for wheels attached to the bottom of the container.

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Ward teaches of a cylinder transporter including teaching of a plurality of wheels (18) located on the bottom of the transporter.

It would have been obvious to one having ordinary skill in the art at the time of invention to provide wheels on the bottom of the transporter, as taught by Ward, in the invention taught by Troiano et al. to allow the transported to be wheeled increasing user convenience.

In regards to 12 and 13, Troiano et al. show a strap (44), which is attached to the side of the box shaped container. The fastener for fixing the strap is inherently received within an opening.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Troiano et al. in view Ward, and in further view of U.S. Patent No. 5,263,727 issued to Libit et al.

Troiano et al. in view Ward does not teach a telescopic handle.

Telescopic handles are well-known in the vehicle art. Libit et al. teaches of a telescopic handle (300) for a carrier. It would have been obvious to one having ordinary skill in the art at the time of invention to include a telescopic handle, as taught by Libit et al., in the invention taught by Troiano et al. and as modified by Ward to allow the user to move the modified carrier with wheels, without the user needing to bend over, reducing back strain.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Troiano et al. in view Ward, and in further view of U.S. Patent No. 6,929,142 issued to Gilbert.

Troiano et al. shows a pivoting top (30) for container. Troiano et al. does not show a pair of side flaps to partially open the container.

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Gilber shows a flap structure with a pair of side flaps (68,70) pivotally connected to a posed position where the center of the container is only partially covered. It would have been obvious to one having ordinary skill in the art at the time of invention to obvious to one having ordinary skill in the art to incorporate the pair of side flaps, as taught by Gilber, in the invention taught by Troiano et al. and Ward. One would be motivated to incorporate the side flaps to allow the foam padding (26), shown by Troiano et al. in Figure 1, to be covered. One would be motivated to cover the foam to fix the position of the cylinder within the container to provide the advantage of reducing shifting during transport.

10. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Troiano et al. in view Ward and Gilbert, and in further view of U.S. Patent No. 4,767,139 issued to Hansing.

Troiano et al. as modified by Ward and Gilbert, disclose the claimed invention except for teaching of a fastener for fixing the side flaps.

Hansing teaches of an old and well-known fastener for fixing a component that pivots relative to another component. Hansing teaches of a tension engaged lever (see spring action shown in Figures 7-9) with dowel portion (taken to be element 22) received in portion (34). It would have been obvious to one having ordinary skill in the art at the time of invention to include the well-known fastener, as taught by Hansing, in the invention taught by Troiano et al. and as modified by Ward and Gilbert. One would be motivated to include a fastener to securely fasten the side flaps to further aid in reducing shifting during transport.

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11. Claims 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Troiano et al. in view Ward, Gilbert, Hansing and in further view of Libit et al.

Troiano et al. as modified by Ward, Gilbert, Hansing (as disclosed above in reference to claims 1 and 7-9) disclose the claimed invention except for teaching of a telescoping handle.

Telescopic handles are well-known in the vehicle art. Libit et al. teaches of a telescopic handle (300) for a carrier. It would have been obvious to one having ordinary skill in the art at the time of invention to include a telescopic handle, as taught by Libit et al., in the invention taught by Troiano et al. and as modified by Ward, Gilbert and Hansing to allow the user to move the modified wheeled carrier, without the user needing to bend over, reducing back strain.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,666,333 issued to Auclair teaches of a carton blank.

U.S. Patent No. 6,386,559 and 6,042,130 issued to Souza teaches of an apparatus for securing a propane tank on a car seat.

U.S. Patent No. 5,489,183 issued to Malden et al. and U.S. Patent No. 6,116,623 issued to Salvucci teach of a dollies for pressurized cylinders.

U.S. Patent No. 5,427,272 issued to Gaspari, U.S. Patent No. 5,407,077 issued to Sinclair, Sr., U.S. Patent No. 4,964,529 issued to Houston, U.S. Patent No.


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Bramming and U.S. Patent No. 2,182,116 issued to Copeman all teach of other prior art pertinent to the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


bls

Brian Swenson
Examiner
Art Unit 3618

